

AMENDED IN ASSEMBLY JUNE 10, 2002
AMENDED IN ASSEMBLY MAY 28, 2002
AMENDED IN ASSEMBLY MAY 6, 2002
AMENDED IN ASSEMBLY APRIL 18, 2002
AMENDED IN ASSEMBLY JULY 18, 2001
AMENDED IN SENATE JUNE 4, 2001
AMENDED IN SENATE APRIL 16, 2001
AMENDED IN SENATE MARCH 29, 2001

SENATE BILL

No. 183

Introduced by Senator Burton

February 6, 2001

An act to amend Sections 20300, 20405.1, and 20687 of, and to add Sections 19816.21, 21020.5, and 21363.8 to, the Government Code, and to amend Section 830.1 of the Penal Code, relating to state employees' retirement, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 183, as amended, Burton. State employees: retirement benefits.

(1) Existing law authorizes members of the Public Employees' Retirement System to receive service credit for various types of service that are not otherwise eligible for service credit upon payment of specified additional contributions, which contributions are deposited in

the Public Employees' Retirement Fund, a continuously appropriated special fund.

This bill would authorize state and school members of the system and, if adopted by their contracting agencies, local members of the system to receive service credit for service performed ~~on or after October 14, 1991~~, with specified legislative, executive, and judicial fellowship programs, upon payment of specified additional contributions *and subject to certain limitations*. By increasing member contributions to the Public Employees' Retirement Fund, the bill would make an appropriation.

(2) Under the Public Employees' Retirement Law, state employees classified as state safety members are entitled to generally higher benefits, and subject to higher contribution rates, than those employees classified as state miscellaneous members. Member contributions are deposited in the Public Employees' Retirement Fund, a continuously appropriated fund.

Under this bill, a state employee who is (1) a member of State Bargaining Unit 7, (2) in a related managerial, supervisory, or confidential position, or (3) an officer or employee of the executive branch in a related position, subject to specified conditions, and who is classified as a state miscellaneous member would, as of July 1, 2004, become a state safety member, unless he or she elects to remain a miscellaneous member, as specified in existing law. By increasing member contributions to the Public Employees' Retirement Fund, the bill would make an appropriation.

(3) The Public Employees' Retirement Law prescribes a 3% at age 50 retirement formula for state peace officer/firefighter members who are members of State Bargaining Unit 6 and who retire or die on or after January 1, 2006.

This bill would additionally make the 3% at age 50 retirement formula applicable to state peace officer/firefighter members who are members of State Bargaining Unit 7 and who retire or die on or after July 1, 2004, and would make a related, technical change.

(4) Under existing law, specified employees of the Department of Justice, among others, are defined as "peace officers" and, as such, may exercise certain powers, including the power of search, seizure, and arrest, and are state peace officer/firefighter members of the Public Employees' Retirement System.

This bill would include the Attorney General in the definition of a "peace officer."

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 19816.21 is added to the Government
2 Code, to read:
3 19816.21. (a) Notwithstanding Sections 18717 and
4 19816.20, effective July 1, 2004, the following officers and
5 employees, who are in the following classifications or positions on
6 or after July 1, 2004, shall be state safety members of the Public
7 Employees' Retirement System:
8 (1) State employees in State Bargaining Unit 7 (Protective
9 Services and Public Services) whose job classifications are subject
10 to state miscellaneous membership in the Public Employees'
11 Retirement System, unless otherwise excluded by a memorandum
12 of understanding.
13 (2) State employees in managerial, supervisory, or confidential
14 positions that are related to the job classifications described in
15 paragraph (1) and that are subject to state miscellaneous
16 membership in the Public Employees' Retirement System,
17 provided that the Department of Personnel Administration has
18 approved their inclusion.
19 (3) Officers and employees of the executive branch of state
20 government who are not members of the civil service and who are
21 in positions that are related to the job classifications described in
22 paragraph (1) and that are subject to state miscellaneous
23 membership in the Public Employees' Retirement System,
24 provided that the Department of Personnel Administration has
25 approved their inclusion.
26 (b) The department shall notify the Public Employees'
27 Retirement System of the classes or positions that become subject
28 to state safety membership under this section, as prescribed in
29 Section 20405.1.
30 SEC. 2. Section 20300 of the Government Code is amended
31 to read:
32 20300. The following persons are excluded from membership
33 in this system:
34 (a) Inmates of state or public agency institutions who are
35 allowed compensation for the service they are able to perform.

1 (b) Independent contractors who are not employees.

2 (c) Persons employed as student assistants in the state colleges
3 and persons employed as student aides in the special schools of the
4 State Department of Education and in the public schools of the
5 state.

6 (d) Persons employed as teacher-assistants pursuant to Section
7 44926 of the Education Code.

8 (e) Participants, other than staff officers and employees, in the
9 California Conservation Corps.

10 (f) Persons employed as participants in a program of, and
11 whose wages are paid in whole or in part by federal funds in
12 accordance with, Section 1501 et seq. of Title 29 of the United
13 States Code. This subdivision does not apply with respect to
14 persons employed in job classes that provide eligibility for patrol
15 or safety membership or to the career staff employees of an
16 employer.

17 (g) All persons who are members in any teachers' retirement
18 system, as to the service in which they are members of any
19 teachers' retirement system.

20 (h) Except as otherwise provided in this part, persons rendering
21 professional legal services to a city, other than the person holding
22 the office of city attorney, the office of assistant city attorney, or
23 an established position of deputy city attorney.

24 (i) A person serving the university as a teacher in university
25 extension, whose compensation for that service is established on
26 the basis of class enrollment, either actual or estimated, with
27 respect to that service.

28 (j) A person serving a California State University as a teacher
29 in extension service, whose compensation for that service is
30 established on the basis of class enrollment, either actual or
31 estimated, with respect to that service.

32 (k) A teacher or academic employee of the university or any
33 California State University who is otherwise fully employed and
34 who serves as a teacher or in an academic capacity in any summer
35 session or intersession, for which he or she receives compensation
36 specifically attributable to that service in summer session or
37 intersession, with respect to that service.

38 (l) A person who is employed under the *California* Senate
39 Fellows, the Assembly Fellowship, the Judicial Administration
40 Fellowship, or the Executive Fellowship programs.



SEC. 3. Section 20405.1 of the Government Code is amended to read:

20405.1. Notwithstanding Section 20405, this section shall apply to state employees in state bargaining units that have agreed to these provisions in a memorandum of understanding between the state employer and the recognized employee organization, as defined in Section 3513, state employees who are excluded from the definition of “state employee” by subdivision (c) of Section 3513, and officers or employees of the executive branch of state government who are not members of the civil service.

(a) On and after the effective date of this section, state safety members shall also include officers and employees whose classifications or positions are found to meet the state safety criteria prescribed in Section 19816.20, provided the Department of Personnel Administration agrees to their inclusion, and officers and employees whose classifications or positions have been designated as subject to state safety membership pursuant to Section 19816.21. For employees covered by a collective bargaining agreement, the effective date of safety membership shall be the date on which the department and the employees’ exclusive representative reach agreement by memorandum of understanding pursuant to Section 3517.5 or any later date specified in the memorandum of understanding. For employees not covered by a collective bargaining agreement, the Department of Personnel Administration shall determine the effective date of safety membership.

(b) The department shall notify the board as new classes or positions become eligible for state safety membership, as specified in subdivision (a), and specify how service prior to the effective date shall be credited.

(c) The department shall prepare and submit to the Legislature an annual report that contains the classes or positions that are eligible for state safety membership under this section.

(d) Any person designated as a state safety member pursuant to this section may elect, within 90 days of notification by the board, to remain subject to the miscellaneous or industrial service retirement benefit and contribution rate by filing an irrevocable election with the board. A member who so elects shall be subject to the reduced benefit factors specified in Section 21076, 21353,

1 or 21354.1, as applicable, only for service also included in the
2 federal system.

3 SEC. 4. Section 20687 of the Government Code is amended
4 to read:

5 20687. (a) The normal rate of contribution for state peace
6 officer/firefighter members subject to Section 21363, 21363.1,
7 21363.3, 21363.4, or 21363.8 shall be 8 percent of the
8 compensation in excess of two hundred thirty-eight dollars (\$238)
9 per month paid to those members.

10 (b) If the provisions of this section are in conflict with the
11 provisions of a memorandum of understanding reached pursuant
12 to Section 3517.5 or pursuant to Chapter 12 (commencing with
13 Section 3560) of Division 4 of Title 1, the memorandum of
14 understanding shall be controlling without further legislative
15 action, except that if those provisions of a memorandum of
16 understanding require the expenditure of funds, those provisions
17 shall not become effective unless approved by the Legislature in
18 the annual Budget Act.

19 (c) The Director of the Department of Personnel
20 Administration may establish the normal rate of contribution for
21 a state employee who is excepted from the definition of “state
22 employee” in subdivision (c) of Section 3513, and an officer or
23 employee of the executive branch of state government who is not
24 a member of the civil service. The normal rate of contribution shall
25 be the same for all members identified in this subdivision. The
26 contribution rate shall be effective the beginning of the pay period
27 indicated by the Director of the Department of Personnel
28 Administration but shall be no earlier than the beginning of the pay
29 period following the date the board receives notification.

30 SEC. 5. Section 21020.5 is added to the Government Code, to
31 read:

32 21020.5. (a) “Public service” also means time, on or after
33 October 14, 1991, during which a person was employed under the
34 California Senate Fellows, the Assembly Fellowship, ~~the Judicial~~
35 ~~Administration Fellowship~~, or the Executive Fellowship
36 programs, *and time, on or after January 1, 2003, during which a*
37 *person was employed under the Judicial Administration*
38 *Fellowship program.*

(b) A member may elect at any time prior to retirement to receive service credit for that public service by making the contributions as specified in Sections 21050 and 21052.

(c) This section shall not apply to any contracting agency nor to the employees of any contracting agency until the agency elects to be subject to this section by contract or by amendment to its contract made in the manner prescribed for approval of contracts.

SEC. 6. Section 21363.8 is added to the Government Code, to read:

21363.8. (a) Upon attaining the age of 50 years or more, the combined current and prior service pension for a state peace officer/firefighter member described in subdivision (c) who retires or dies on or after January 1, 2004, is a pension derived from the contributions of the employer sufficient when added to the service retirement annuity that is derived from the accumulated normal contributions of the member at the date of his or her retirement to equal 3 percent of his or her final compensation at retirement, multiplied by the number of years of state peace officer/firefighter service, as defined in subdivision (d), subject to this section with which he or she is credited at retirement.

(b) For state peace officer/firefighter members, with respect to service for all state employers under this section, the current service pension and the combined current and prior service pension under this section may not exceed an amount that, when added to the service retirement annuity related to that service, equals 90 percent of final compensation. If the pension relates to service to more than one employer and would otherwise exceed that maximum, the pension payable with respect to each employer shall be reduced in the same proportion as the allowance based on service to that employer bears to the total allowance computed as though there were no limit, so that the total of the pensions shall equal the maximum.

(c) (1) This section shall apply to state peace officer/firefighter members under this part who, on or after January 1, 2004, are employed by the state and are members of State Bargaining Unit 7.

(2) This section may also apply to state peace officer/firefighter members in managerial, supervisory, or confidential positions that are related to the members described in paragraph (1) and to officers or employees of the executive branch of state government

1 who are not members of the civil service and who are in positions
2 that are related to the members described in paragraph (1), if the
3 Department of Personnel Administration has approved their
4 inclusion in writing to the board.

5 (d) (1) For purposes of this section, “state peace
6 officer/firefighter service” means service performed by a state
7 peace officer/firefighter member while a member of State
8 Bargaining Unit 7.

9 (2) That service may include state peace officer/firefighter
10 service in managerial, supervisory, or confidential positions that
11 are related to the members described in paragraph (1) or as officers
12 or employees of the executive branch of state government who are
13 not members of the civil service and who are in positions that are
14 related to the members described in paragraph (1), provided the
15 Department of Personnel Administration has approved their
16 inclusion in writing to the board.

17 (e) This section shall supersede Section 21363 or 21363.1,
18 whichever is applicable, with respect to state peace
19 officer/firefighter members subject to this section and state peace
20 officer/firefighter service as defined herein.

21 (f) The Legislature reserves, with respect to any member
22 subject to this section, the right to provide for the adjustment of
23 industrial disability retirement allowances because of earnings of
24 a retired person and modification of the conditions and
25 qualifications required for retirement for disability as it may find
26 appropriate because of the earlier ages of service retirement made
27 possible by the benefits under this section.

28 SEC. 7. Section 830.1 of the Penal Code is amended to read:

29 830.1. (a) Any sheriff, undersheriff, or deputy sheriff,
30 employed in that capacity, of a county, any chief of police of a city
31 or chief, director, or chief executive officer of a consolidated
32 municipal public safety agency that performs police functions, any
33 police officer, employed in that capacity and appointed by the
34 chief of police or chief, director, or chief executive of a public
35 safety agency, of a city, any chief of police, or police officer of a
36 district (including police officers of the San Diego Unified Port
37 District Harbor Police) authorized by statute to maintain a police
38 department, any marshal or deputy marshal of a municipal court,
39 any port warden or special officer of the Harbor Department of the
40 City of Los Angeles, or any inspector or investigator employed in

1 that capacity in the office of a district attorney, is a peace officer.
2 The authority of these peace officers extends to any place in the
3 state, as follows:

4 (1) As to any public offense committed or which there is
5 probable cause to believe has been committed within the political
6 subdivision that employs the peace officer.

7 (2) Where the peace officer has the prior consent of the chief
8 of police or chief, director, or chief executive officer of a
9 consolidated municipal public safety agency, or person authorized
10 by him or her to give consent, if the place is within a city or of the
11 sheriff, or person authorized by him or her to give consent, if the
12 place is within a county.

13 (3) As to any public offense committed or which there is
14 probable cause to believe has been committed in the peace
15 officer's presence, and with respect to which there is immediate
16 danger to person or property, or of the escape of the perpetrator of
17 the offense.

18 (b) The Attorney General and special agents and investigators
19 of the Department of Justice are peace officers, and those assistant
20 chiefs, deputy chiefs, chiefs, deputy directors, and division
21 directors designated as peace officers by the Attorney General are
22 peace officers. The authority of these peace officers extends to any
23 place in the state where a public offense has been committed or
24 where there is probable cause to believe one has been committed.

25 (c) Any deputy sheriff of a county of the first class, and any
26 deputy sheriff of the Counties of Riverside and San Diego, who is
27 employed to perform duties exclusively or initially relating to
28 custodial assignments with responsibilities for maintaining the
29 operations of county custodial facilities, including the custody,
30 care, supervision, security, movement, and transportation of
31 inmates, is a peace officer whose authority extends to any place in
32 the state only while engaged in the performance of the duties of his
33 or her respective employment and for the purpose of carrying out
34 the primary function of employment relating to his or her custodial
35 assignments, or when performing other law enforcement duties
36 directed by his or her employing agency during a local state of
37 emergency.

